

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**BOX-AF**  
**Assistant Commissioner for Patents**  
**Washington, D.C. 20231**

**LETTER**

This is in response to an Order Returning Undocketed Appeal to Examiner. The order states that a Notice of Appeal was never filed in the instant application. This statement is incorrect. The examiner mailed a Final Rejection to Applicant on November 12, 2002. On February 12, 2003, applicant submitted its Notice of Appeal. The Notice included authorization for the Commissioner to charge \$320.00 to Deposit Account No. 50-1482 for the Notice of Appeal fee. A copy of applicant's Notice of Appeal and proof of facsimile is attached. Thus, applicant submitted the Notice of Appeal in a timely manner within the three month shortened statutory period.

PAIR indicates that applicant's Notice of Appeal was filed on April 21, 2003, the same day as the filing of applicant's Appeal Brief. A copy of the PAIR page is attached. The PAIR page also indicated that applicant submitted a Request for Extension of Time. Applicant did not

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Docket No.: 60,130-709; 99MRA0211

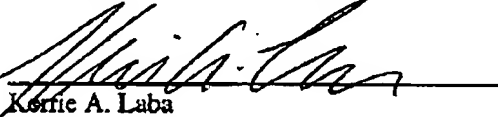
submit a request for extension of time because applicant's Notice of Appeal was timely filed on February 12, 2003.

Carlson, Gaskey & Olds' Deposit Account Statement, dated May, 2003 reflects a charge of \$410.00 for an extension fee. However, the \$320.00 Notice of Appeal fee was not charged.

Applicant requests a refund in the amount of \$410.00 for the erroneous extension of time fee. Further, applicant requests that the Notice of Appeal reflect an entry date of February 12, 2003, that the \$320.00 Notice of Appeal fee be charged to Deposit Account 50-1482, and that this application be immediately returned to the Board of Patent Appeals and Interferences for consideration.

Respectfully submitted,

CARLSON, GASKEY & OLDS

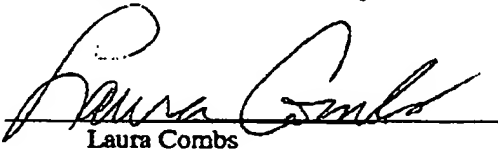


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CERTIFICATE OF TRANSMISSION UNDER 37 CFR 1.8

I hereby certify that this correspondence is being facsimile transmitted to the United States patent and Trademark Office, fax number (703) 872-9306, on February 10, 2004.



Laura Combs